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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

DAVID GOULD, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

FACEBOOK, INC., a Delaware corporation,

Defendant.

Case No. 10-cv-02389-JW (PVT)

**STIPULATION AND  
[PROPOSED] ORDER  
CONSOLIDATING CASES FOR  
ALL PURPOSES, ALLOWING  
FOR THE FILING OF A  
CONSOLIDATED COMPLAINT,  
SETTING A CASE  
MANAGEMENT CONFERENCE  
FOR OCTOBER 25, 2010, AND  
APPOINTING LEAD COUNSEL**

Case No. 10-cv-02408-JW (PVT)

1 MIKE ROBERTSON, individually and on behalf of  
2 all others similarly situated,

3 Plaintiff,

4 v.

5 FACEBOOK, INC., a Delaware corporation, and  
6 DOES 1-50, inclusive,

7 Defendant.  
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1 This Stipulation is entered into by and among plaintiffs David Gould and Mike Robertson  
 2 (collectively, "Plaintiffs") and defendant Facebook, Inc. ("Defendant") by and through their  
 3 respective counsel.

4 WHEREAS the complaint in *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW  
 5 ("*Gould*") was filed on May 28, 2010;

6 WHEREAS the complaint in *Robertson v. Facebook, Inc.*, Case No. 10-cv-02408-JW  
 7 ("*Robertson*") was filed on June 1, 2010;

8 WHEREAS the Court ordered the cases related under Civil Local Rule 3-12 on July 26,  
 9 2010 (*Gould* Docket No. 17; *Robertson* Docket No. 7);<sup>1</sup>

10 WHEREAS the Court set a Case Management Conference for the related actions for  
 11 September 13, 2010 (*Gould* Docket No. 17; *Robertson* Docket No. 7);

12 WHEREAS, counsel for the Parties have conferred, and the Parties are in agreement that  
 13 the *Gould* action should be consolidated with the *Robertson* action for all purposes because the  
 14 cases involve similar complaints and common questions of law and fact and because  
 15 consolidation would advance the interests of judicial and party economy;

16 WHEREAS, the Parties are in agreement that a Consolidated Complaint should be filed;

17 WHEREAS, the Parties had previously stipulated pursuant to Civil L.R. 6-1(a) to extend  
 18 the deadlines for Defendant's response to the Complaint in *Gould* and the Complaint in  
 19 *Robertson* to August 13, 2010, but now have agreed on a schedule for the filing of a Consolidated  
 20 Complaint and response thereto;

21 WHEREAS, Plaintiffs, through their counsel of record, have agreed to a leadership  
 22 structure appointing Michael Aschenbrener of Edelson McGuire LLC and Kassra Nassiri of  
 23 Nassiri & Jung LLP as Co-Lead Counsel;

24  
 25  
 26 <sup>1</sup> Another case concerning the same underlying subject matter was filed in the District of Rhode  
 27 Island, *Marfeo v. Facebook, Inc.*, Case No. 10-cv-2062-S-LDA, June 17, 2010. Counsel for  
 28 Gould has attempted to contact counsel for Marfeo multiple times by telephone and email, but the  
 Marfeo counsel has not returned any messages. Additionally, Marfeo has not served Facebook in  
 the *Marfeo* action.

WHEREAS, good cause exists to appoint Co-Lead Counsel and such structure would promote the efficient drafting and filing of a Consolidated Complaint, as well as the ability of the Parties to efficiently dispense with a multitude of case management issues for the proposed consolidated action; AND,

WHEREAS, Defendant does not oppose Plaintiffs' proposed leadership structure;

**IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned counsel for Plaintiffs and Defendant, as follows:

1. Pursuant to Federal Rule of Civil Procedure 42(a), the following actions are hereby consolidated for all purposes into one action:

a. *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW; and

b. *Robertson v. Facebook, Inc.*, Case No. 10-cv-02408-JW.

2. These actions shall be referred to herein as the "Consolidated Actions." The Master Docket and Master File for the Consolidated Actions shall be that for *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW.

3. Every pleading in the Consolidated Actions shall bear the following caption:

DAVID GOULD, individually and on behalf	)	Case No. 10-cv-02389-JW
of all others similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
FACEBOOK, INC., a Delaware corporation,	)	
and DOES 1-50, inclusive,	)	
	)	
Defendants.	)	

All orders, pleadings, motions and other documents shall, when filed and docketed in the Master File, be deemed filed and docketed in each individual case to the extent applicable.

4. All subsequently filed class or individual actions against the Defendant alleging the same or similar claims as alleged in the complaints in Consolidated Actions shall be consolidated under the case *Gould v. Facebook, Inc.*, Case No. 10-cv-02389-JW.

5. The Plaintiffs shall file a Consolidated Complaint on or before August 27, 2010. Defendant shall file a response (answer, motion to dismiss, or other response) to the Consolidated Complaint on or before September 27, 2010. In light of the consolidation and filing of a Consolidated Complaint, Defendant has no obligation to respond to the Complaint in *Gould* or the Complaint in *Robertson* that are currently on file.<sup>2</sup>

6. The parties shall appear for a Case Management Conference in the Consolidated Actions on Monday, October 25, 2010 at 10:00 a.m. On or before October 15, 2010, the parties shall file a Joint Case Management Statement pursuant to Fed. R. Civ. P. 26 and Civil L.R. 16-9. The Case Management Conference currently scheduled for September 13, 2010 and the corresponding deadline of September 3, 2010 for the parties to file their Joint Case Management Statement (see *Gould* Docket No. 17; *Robertson* Docket No. 7) are hereby vacated.

7. The Court's previous Orders Setting Initial Case Management Conference and ADR Deadlines in each case (see *Gould* Docket No. 3; *Robertson* Docket No. 4) are otherwise modified as follows:

- a. October 4, 2010 will be the last day to meet and confer re: initial disclosures, early settlement, ADR process selection, and discovery plan (Fed. R. Civ. Pro. 26(f) & ADR L.R. 3-5).
- b. October 15, 2010 will be the last day to:
  - i. file ADR certification signed by Parties and Counsel (Civil L.R. 16-8(b) & ADR L.R. 3-5(b));
  - ii. file either Stipulation to ADR Process or Notice of Need for ADR Phone Conference (Civil L.R. 16-8(c) & ADR L.R. 3-5(b) & (c)); and
  - iii. file the Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report and file Case Management Statement

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<sup>2</sup> Under Civil L.R. 6-1(a), this constitutes the stipulation of the Parties concerning the deadline (previously extended by stipulation to August 13, 2010) for Defendant's responses to the separate Complaints that are currently on file.

per the Court's Standing Order re Contents of Joint Case Management Statement (Fed. R. Civ. Pro. 26(a)(1) & Civil L.R. 16-9).

8. Defendant does not oppose the appointment of the following counsel as Plaintiffs' Co-Lead Counsel, pursuant to Fed. R. Civ. P. 23(g)(3):

- a. Michael Aschenbrener of Edelson McGuire LLC; and
- b. Kassra Nassiri of Nassiri & Jung LLP.

9. Co-Lead Counsel shall have day-to-day responsibility for the conduct of the Consolidated Actions; shall determine how to prosecute the action and shall initiate, coordinate and supervise the efforts of plaintiffs' counsel in the Consolidated Actions in the areas of discovery, briefing, trial and settlement.

10. Co-Lead Counsel shall coordinate, initiate, and conduct discovery on behalf of Plaintiffs consistent with the requirements of Fed. R. Civ. P. 26, including preparing joint interrogatories and requests for production of documents and the examination of witnesses in depositions; fund the necessary and appropriate costs of discovery and other common benefit efforts; consult with and employ consultants or experts, as necessary; coordinate settlement discussions or other ADR efforts on behalf of Plaintiffs, under the supervision of the Court, if and as appropriate; and enter into stipulations with opposing counsel as necessary for the conduct of the Consolidated Actions.

11. Co-Lead Counsel shall designate responsibilities for specific tasks to plaintiffs' counsel in the Consolidated Actions in a manner to assure that pretrial preparation is conducted effectively, efficiently and economically; and shall monitor the activities of plaintiffs' counsel to assure that schedules are met and unnecessary expenditures of time and money are avoided. Co-Lead Counsel shall maintain the official service list of all plaintiffs' counsel in the Consolidated Actions, including their addresses. Co-Lead Counsel shall interface with the Court and shall perform any additional functions that may be assigned to them by the Court.

12. The organizational structure of Co-Lead Counsel shall bind all plaintiffs' counsel in the Consolidated Actions, including plaintiffs' counsel in any subsequently filed action that is found to be a related case pursuant to Civil L.R. 3-12.

This stipulation is without prejudice to any other rights that any party may have.

Respectfully submitted,

Dated: August 10, 2010

NASSIRI & JUNG LLP

By: \_\_\_\_\_/s/

Kassra P. Nassiri

Attorneys for Plaintiff Mike Robertson

Dated: August 10, 2010

EDELSON MCGUIRE LLC

By: \_\_\_\_\_/s/

Michael J. Aschenbrener (*pro hac vice*)

Attorneys for Plaintiff David Gould

Dated: August 10, 2010

COOLEY LLP

By: \_\_\_\_\_/s/

Matthew D. Brown

Attorneys for Defendant Facebook, Inc.

**[PROPOSED] ORDER**

PURSUANT TO STIPULATION OF THE PARTIES, IT IS SO ORDERED.

DATED: \_\_\_\_\_, 2010

\_\_\_\_\_  
HON. JAMES WARE  
UNITED STATES DISTRICT JUDGE

**FILER'S ATTESTATION**

Pursuant to General Order No. 45, Section X, Subparagraph B, the undersigned attests that all parties have concurred in the filing of this STIPULATION AND [PROPOSED] ORDER CONSOLIDATING CASES FOR ALL PURPOSES, ALLOWING FOR THE FILING OF A CONSOLIDATED COMPLAINT, SETTING A CASE MANAGEMENT CONFERENCE FOR OCTOBER 25, 2010, AND APPOINTING LEAD COUNSEL.

Dated: August 10, 2010

COOLEY LLP

By: \_\_\_\_\_  
Matthew D. Brown

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